

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

APPLICATION 27625

PERMIT 19189

LICENSE \_\_\_\_\_

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,  
AND AMENDING THE PERMIT

**WHEREAS:**

1. Permit 19189 was issued to Jerome W. Komes and Flora C. Komes on March 29, 1984 pursuant to Application 27625.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
3. The permittee has proceeded with diligence and good cause has been shown for the extension of time.
4. Permit Condition 11 pertaining to the continuing authority of the Board should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Condition 7 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE  
COMPLETED ON OR BEFORE

December 31, 1992

(0000008)

2. Condition 8 of the permit be amended to read:

COMPLETE APPLICATION OF THE  
WATER TO THE PROPOSED USE  
SHALL BE MADE ON OR BEFORE

December 31, 1993

(0000009)

3. Condition 11 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces;

(5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: FEBRUARY 26 1990

  
for Walter G. Pettit, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19189

Application 27625 of Jerome W. Komes and Flora C. Komes  
1889 West Zinfandel Lane, St. Helena, California 94574

filed on January 10, 1983, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: Tributary to:  
Unnamed Stream Pope Creek thence  
Lake Berryessa

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
Jerome Lake North 2,400 feet and East 2,850 feet from SW corner of Section 12	NW <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	12	9N	6W	MD
Duvall Lake North 45° West 150 feet from SE corner of SW <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub> of Section 12	SW <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	12	9N	6W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Recreational	Jerome Lake in NW <sup>1</sup> / <sub>4</sub> of SE <sup>1</sup> / <sub>4</sub>	12	9N	6W	MD	
	Duvall Lake in SW <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	12	9N	6W	MD	
Heat Protection						
Frost Protection						
Irrigation	E <sup>1</sup> / <sub>2</sub>	12	9N	6W	MD	135
	E <sup>1</sup> / <sub>2</sub> of SW <sup>1</sup> / <sub>4</sub>	12	9N	6W	MD	11
	S <sup>1</sup> / <sub>2</sub> of NW <sup>1</sup> / <sub>4</sub>	7	9N	5W	MD	25
	NW <sup>1</sup> / <sub>4</sub> of SW <sup>1</sup> / <sub>4</sub>	7	9N	5W	MD	18
					Total	189

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 112 acre-feet per annum to be collected from October 15 of each year to April 30 of the succeeding year as follows: 40 acre-feet per annum in Jerome Lake, 72 acre-feet per annum in Duvall Lake. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be completed by December 1, 1987. (0000008)

8. Complete application of the water to the authorized use shall be made by December 1, 1988. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

14. Permittee shall install and maintain outlet pipes of adequate capacity in his dams as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board in order that water entering the reservoirs which is not authorized for appropriation under this permit may be released. Before construction permittee shall submit plans and specifications of the outlet pipes to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir permittee shall furnish evidence which substantiates that outlets have been installed in the dams. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. Permittee shall not store water under this permit until the Department of Water Resources has approved plans and specifications of the enlarged storage dam. (0360048)

16. In accordance with the requirements of Water Code Section 1393, permittee shall clear the area covered by the proposed reservoir enlargement of all structures, trees and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)

17. For the protection of fish and wildlife in Pope Creek, permittee shall during the period from November 1 through April 30 bypass a minimum of 0.4 cubic foot per second. The total streamflow shall be bypassed whenever it is less than the designated amount. (0140060)

18. Permittee shall install devices, satisfactory to the State Water Resources Control Board, which are capable of measuring the flows required by the conditions of this permit. Said measuring devices shall be properly maintained. (0060062)

19. Permittee is hereby put on notice that there may be years when water collected to storage under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in Decision 869. During such years, unless replacement water is provided on an exchange basis, permittee shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa. (0220086)

20. The total quantity of water diverted under this permit, together with that diverted under permit issued on Application 19374 and license issued on Application 9574 shall not exceed:

1. Jerome Lake - 60 acre-feet per annum
2. Duvall Lake - 272 acre-feet per annum

21. The archeological sites identified as CA-Nap-251, CA-Nap-252, CA-Nap-670, CA-Nap-672, CA-Nap-314, and CA-Nap-673H in the report An Archaeological Reconnaissance of the Komes-Edge Hill Farms Properties, Pope Valley, Napa County, California, shall not be impacted by any of the developments proposed under this application. Site CA-Nap-251 shall have its boundaries flagged prior to construction of the Lake Duvall enlargement to insure its protection during construction activities. Future developments at sites CA-Nap-673H, CA-Nap-314, CA-Nap-672, and CA-Nap-670 may be permitted following the completion of an archeological mitigation program approved by the State Water Resources Control Board, Division of Water Rights. (0380500)

**This permit is issued and permittee takes it subject to the following provisions of the Water Code:**

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MARCH 29 1984

STATE WATER RESOURCES CONTROL BOARD

*Raymond Nash*

Chief, Division of Water Rights